IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 699 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

KANUBHAI PARSHOTTAMBHAI VALAND

Appearance:

1. Criminal Revision Application No. 699 of 1998

MR SJ DAVE, APP for Petitioner No. 1

RULE SERVED for Respondent No. 1

ABATED for Respondent No. 2

MS CM JOSHI, for Respondent No. 3

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 06/03/2003

ORAL JUDGEMENT

This is a revision application under Section 397 read with Section 401 of the Code of Criminal Procedure,

1973 for setting aside an order dated 17/07/98 recorded by the learned Additional Sessions Judge and Special Judge, Kheda at Nadiad in Special (SCST) Case No. 147 of 1996 under which the learned Judge acquitted the contesting respondents and also directed that the amount of compensation received by the original complainant be recovered from the original complainant, if it has been paid to them.

2. The respondents herein were tried in the aforesaid case for offences punishable under Section 504, 506(2) read with Section 114 IPC as well as for offences punishable under Section 3(1)(10) of The Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989. After recording of evidence, the learned trial Judge acquitted the respondents and also directed that compensation paid to the informant - Ishwarbhai Parshotambhai Parmar and witness Shantibhai Balwantbhai, be recovered from them by the State within 30 days. So far the acquittal appeal is concerned, it has not been challenged by the State. However, so far the recovery of compensation is concerned that part of the order of the trial court has been challenged in this revision application by the State.

3. I have heard learned APP, Mr.S J Dave for the State. It seems that the order in revision is an order requiring the State to recover the amount of compensation, if paid to the persons stated in the order.

4. On going through the said order it is not possible to hold that the petitioner - State can be treated to be a party aggrieved by the said order. When the State is not a party aggrieved by the said order, it would not be open to the State to prefer such criminal revision application. Similar view was taken by this Court in earlier matter in Criminal Revision Application No. 115 of 1999 dated 17th February, 2002. In that view of the matter, there is no reason to take a view different from the view taken in the said matter. Therefore, this revision application does not survive.

5. For the foregoing reasons, this revision application is ordered to be dismissed. Rule is discharged.

(D. P. Buch, J.)

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